

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE**

<b>CHARLES CURTIS, <i>et al.</i>,</b>	)	
<b>Plaintiffs,</b>	)	<b>Civ. No. 3:06-cv-448</b>
<b>v.</b>	)	<b>Judge Phillips</b>
<b>ALCOA INC., Individually and as Fiduciary of the Employees' Group Benefits Plan of Alcoa Inc., Plan II,</b>	)	<b>Hearing Requested</b>
<b>Defendant.</b>	)	

**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs, through counsel, pursuant to Fed. R. Civ. P. 56, E.D.TN. LR 7.1, Paragraph 6(b) of this Court's Revised Scheduling Order dated December 10, 2007, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, and the National Labor Management Relations Act of 1974, 29 U.S.C. § 141, *et seq.*, hereby respectfully move for the entry of partial summary judgment as to liability in this matter as Plaintiffs' benefits are vested and cannot be reduced and the Plaintiffs are entitled to damages from the Defendant.

In further support hereof, Plaintiffs respectfully contemporaneously file their brief in support, the undisputed statement of material facts, the declaration of counsel and accompanying exhibits under seal.

In accordance with E.D.TN. LR 7.2, the undersigned respectfully request the calendaring of a hearing and oral argument.

Wherefore, Plaintiffs respectfully request that their Motion for Partial Summary Judgment be granted.

Respectfully submitted this the 20<sup>th</sup> day of May, 2008 by:

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CERTIFICATE OF SERVICE

I hereby certify on this 20th day of May, 2008, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF filing system, which will electronically service on the same date the attorneys for Defendant as indicated on the electronic filing receipt.

s/Andrew J. Schwaba  
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